

UNITED STATES DISTRICT COURT
OF
MASSACHUSETTS

DORNELL WIGFALL, PRO-SE.
PLAINTIFF

CIVIL ACTION
NO. 05-10091

VS.

MICHAEL SHEEHAN ET-AL
DEFENDANTS.

PLAINTIFF'S MOTION TO STRIKE
DEFENDANTS MOTION TO DISMISS
FOR FAILURE TO COMPLY WITH COURT'S ORDER

Now comes the plaintiff in the above and moves this Honorable Court to allow this motion for the following reasons set forth:

1. On June 11, 2005, the plaintiff did drop the court, defendants responsive plea, motion to supplement complaint stating claims in the institutions locked mailbox to be processed by their inst office under the indigency mailing procedure pursuant to FRCP 5., and Rules of Appellate Procedur Rules 4(b),27.1, 43B MGLA. Huston Vs. Lack, 487 U.S 266,108 S.Ct.2379, 101 L.Ed.2d 245 (1988), THE Supreme Court decided that, under F.R.C.A.P. 4(a)(1), a pro-se inmate's notice of appeal is to be considered filed at the moment it is delivered to the prison authorities.

Wherefore plaintiff request that his motion be granted and the defendants motion be striked.

November 11, 2005.

Respectfully Submitted

Dornell Wigfall
Dornell Wigfall, pr-se.
P.O. BOX 100 60.Walpole,
Mass.02071

UNITED STATES DISTRICT COURT
OF
MASSACHUSETTS

I DEPOSE AND SAY THAT THIS AFFIDAVIT IS BEING WRITTEN
TO THE BEST OF MY KNOWLEDGE TO SUPPORT MY PRO SE MOTION
TO DISMISS FOR FAILURE TO COMPLY WITH COURT'S ORDER

I say that I did make service of process on all parties in this pertaining to the Motion to Supplement Complaint stating claims of the above named defendants to consolidate the entire complaint, and that on June 11, 2005, the defendants and their counsel had been served on all parties by first class mail placed the in the locked mail box and it had been properly served.

SIGNED UNDER THE PAINS AND PENALTY OF PERJURY

June 11, 2005.

Mr. Dornell Wigfall
Dornell Wigfall,
P.O. BOX 100 So.
Walpole, Mass. 02071

CERTIFICATE OF SERVICE

I depose and say that this legal document has been served upon all parties including the defendants and their Counsel November 11, 2005

Dorell Wifall